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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: ) Conf. #: 8498  
S.D. Augustine ) Group No.: 3739  
Serial No.: 09/771,791 ) Examiner: R.D. Gibson  
Filed: January 29, 2001 ) Docket No. AUGA17000025  
)

For: **SURGICAL BARRIER DEVICE INCORPORATING AN INFLATABLE THERMAL BLANKET WITH A SURGICAL DRAPE TO PROVIDE THERMAL CONTROL AND SURGICAL ACCESS**

CERTIFICATION UNDER 37 CFR § 1.8

I hereby certify that the documents referred to as enclosed herein are being deposited with the United States Postal Service as first class mail or September 1, 2005 in envelope addressed to: Mail Stop: Appeal Brief-Patents, Box 1450, Commissioner for Patents, Alexandria VA 22313-1450

September 1, 2005  
Date

Terrance A. Meador  
Signature

MAIL STOP: APPEAL BRIEF-PATENTS  
Commissioner for Patents  
Box 1450  
Alexandria, VA 22313-1450

COMMUNICATION

This is in response to the Office Communication mailed from the United States Patent and Trademark Office on 08/24/2005. On page 2, the Communication states "The terminal disclaimer filed on 1/17/2002 ...". Please note in the enclosed copies of the return postcard and Terminal Disclaimer that this Disclaimer was, in fact, submitted to the Patent Office by first class mail on November 22, 2002.

Date: September 1, 2005

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Respectfully submitted

Terrance A. Meador  
TERRANCE A. MEADOR

Reg. No. 30,298

BEST AVAILABLE COPY

PATENT ATTORNEY DOCKET NO.: AUGA1700002S  
The Patent and Trademark Office date stamp sets forth the receipt date of:

Inventor: Augustine

Serial No.: 09/771,791

Filed: January 28, 2001

Title: SURGICAL BARRIER DEVICE INCORPORATING AN INFLATABLE THERMAL BLANKET WITH A SURGICAL DRAPE TO PROVIDE THERMAL CONTROL AND SURGICAL ACCESS

Amendment and Request for Reconsideration (9 pages) (In duplicate)

Terminal Disclaimer (2 pgs)

Change of Correspondence Address (1 pg)

Check # 54043 in the amount of \$55.00

Date Mailed: November 22, 2002

Atty/Sec Initials: TAM/mmw

Clerk/Matter #: 103806-169152



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Augustine



Group No.: 3739

Serial No.: 09/771,791

Examiner: Rosiland S. Kearney

Filed: January 29, 2001

Docket No.: AUGA17000025

For: **SURGICAL BARRIER DEVICE INCORPORATING AN INFLATABLE THERMAL BLANKET WITH A SURGICAL DRAPE TO PROVIDE THERMAL CONTROL AND SURGICAL ACCESS**

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

**TERMINAL DISCLAIMER**

The owner, AUGUSTINE MEDICAL, INC., of one hundred percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173, as presently shortened by any terminal disclaimer, of prior Patent No. 5,941,907. The owner\* hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner\* does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

I have reviewed the evidentiary documents concerning ownership of United States Patent Application Serial No. 09/771,791 and United States Patent No. 5,941,907 and, to the best of my knowledge and belief, they establish the entire right, title, and interest to United States Patent Application Serial No. 09/771,791 and to United States Patent No. 5,941,907 in AUGUSTINE MEDICAL, INC.

I, TERRANCE A. MEADOR, have the power of attorney from the inventors, and I am authorized to sign this Terminal Disclaimer on behalf of AUGUSTINE MEDICAL, INC.

A check in the amount of \$55.00 is enclosed to cover the applicable fee. The Commissioner is hereby authorized to charge any deficit, or credit any overpayment, to Deposit Account No. 50/2258.

Dated: 22 November 2002

Terrance A. Mead  
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